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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

VINCENT ZINNI, on behalf of himself and
those similarly situated,

Plaintiff,

v.

CLICKSOFTWARE TECHNOLOGIES LTD.,
ISRAEL BOROVICH, MOSHE
BENBASSAT, SHAI BEILIS, NIRA DROR,
SHLOMO NASS, MENAHEM SHALGI, GIL
WEISER, FRANCISCO PARTNERS LP,
OPTIMIZER TOPCO S.A.R.L., OPTIMIZER
MERGER HOLDINGS LTD.

Case No. 8:15-cv-00863-JLS-JCG
**DECLARATION OF EVAN J. SMITH
IN SUPPORT OF PLAINTIFF'S
UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF
SETTLEMENT AND MEMORANDUM
OF POINTS AND AUTHORITIES IN
SUPPORT THEREOF**

Date: September 25, 2015
Time: 2:30pm
Crtrm: 10A
Before: Hon. Josephine L. Staton

1 I, Evan J. Smith, declare as follows:

2 1. I am a partner with the law firm of Brodsky & Smith, LLC, counsel for Plaintiff
3 Vincent Zinni. I am fully familiar with all the facts and circumstances described herein.

4 2. This declaration is submitted in support of the Plaintiff's Unopposed Motion for
5 Preliminary Approval of Settlement and Memorandum of Points and Authorities in Support
6 Thereof in the above-captioned action.

7 3. This is a class action against defendant ClickSoftware Technologies, Ltd.
8 ("ClickSoftware" or the "Company"), Optimizer TopCo S.a.r.l. ("Optimizer"), Francisco Partners
9 Management L.P. ("Francisco Partners"), and Optimizer Merger Holdings Ltd. ("Merger Sub"),
10 and certain individual defendants. The action challenges the merger between ClickSoftware and
11 Optimizer, and Merger Sub (the latter two referred to as the "Optimizer Entities"), which were
12 created by affiliates of Francisco Partners IV, L.P. and Francisco Partners IV-A, L.P. (which in
13 turn are funds managed by Francisco Partners).

14 4. On April 30, 2015, following approval of the Proposed Transaction by
15 ClickSoftware's Board of Directors, ClickSoftware and the Optimizer Entities executed an
16 Agreement and Plan of Merger dated as of April 30, 2015 (the "Merger Agreement").

17 5. On May 29, 2015, plaintiff Sol Scharf ("Plaintiff"), by and through his counsel,
18 Brodsky & Smith, LLC and Faruqi & Faruqi, LLP (together, "Plaintiff's Counsel"), filed a
19 derivative and putative class action lawsuit in the Superior Court of California – Orange County,
20 entitled Scharf v. ClickSoftware Technologies Ltd., et al., (the "Action"), against: (i)
21 ClickSoftware Technologies Ltd. ("ClickSoftware"); (ii) Israel Borovich, Moshe BenBassat, Shai
22 Beilis, Nira Dror, Shlomo Nass, Menahem Shalgi, and Gil Weiser (the "Board of Directors" and,
23 together with ClickSoftware, the "ClickSoftware Defendants"); and (iii) Francisco Partners, L.P.
24 ("Francisco Partners"), Optimizer TopCo S.a.r.l., and Optimizer Merger Holdings Ltd.
25 (collectively, the "Francisco Partners Defendants"). The Action challenged the merger between
26 ClickSoftware and the Optimizer Entities, which were created by affiliates of Francisco Partners
27

1 IV, L.P. and Francisco Partners IV-A, L.P. (which in turn are funds managed by Francisco
2 Partners).¹

3 6. On or about June 1, 2015, Defendants removed the Action to the United States
4 District Court for the Central District of California as Case No. 8:15-cv-00863-JLS-JCG.

5 7. On or about June 3, 2015, an amended complaint was filed substituting Plaintiff
6 Scharf with Plaintiff Zinni and adding a claim under that the Proxy Statement was false and
7 misleading in violation of §14 of the Securities Exchange Act of 1934.

8 8. Plaintiff prepared and served upon defendants a motion for Temporary Restraining
9 Order to enjoin the Merger until such time as adequate disclosures were made to ClickSoftware
10 shareholders and expedited discovery completed.

11 9. Counsel for Plaintiff and counsel for Defendants engaged in extensive and arm's-
12 length negotiations concerning a potential settlement of the Action and avoidance of the motion
13 for Temporary Restraining Order, and specifically Plaintiff's demand that ClickSoftware
14 stockholders be provided with additional disclosures prior to the stockholder vote on the Proposed
15 Transaction.

16 10. On June 8, 2015, the parties memorialized their agreement to settle the Action
17 (subject to certain terms and conditions) and entered into a Memorandum of Understanding (the
18 "MOU") containing the terms for the Parties' agreement-in-principle to resolve the Action and
19 provide for the release of all asserted claims brought on behalf of ClickSoftware's common
20 stockholders (the "Settlement").

21 11. In consideration for the MOU, and in order to achieve a resolution of the Actions,
22 On June 8, 2015, Defendants filed with the SEC a Current Report on Form 6-K (the "Settlement
23 6-K"), attached to the Stipulation of Settlement as Exhibit A, which provided ClickSoftware's
24 shareholders with additional disclosures (the "Supplemental Disclosures") prior to the
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26
27 ¹ The ClickSoftware Defendants and the Francisco Partners Defendants are referred to
28 collectively as the "Defendants."

1 Shareholder Meeting scheduled for June 11, 2015. Counsel for Plaintiff reviewed, commented
2 on and approved the Supplemental Disclosures prior to the filing of the 6-K with the SEC.

3 12. As a result of, among other things, the prosecution of the Action and discussions
4 between and among the Parties, it is agreed that in consideration for the full and final settlement
5 and release of all Released Claims (as defined in the Stipulation) by Plaintiff and all members of
6 the Class and the dismissal with prejudice of the Action, Defendants agreed to and did cause
7 ClickSoftware to file with the SEC on June 8, 2015 the Settlement 6-K, attached as Exhibit A to
8 the Stipulation, containing the Supplemental Disclosures. The Supplemental Disclosures
9 provided information to ClickSoftware shareholders in advance of the shareholder vote
10 concerning, in part, the following:

- 11 • Information regarding the Background of the Merger, including:
 - 12 ○ The Board of Director's actions in soliciting interest from other potential
 - 13 parties in response to the initial offer to purchase ClickSoftware by Francisco
 - 14 Partners in November of 2014;
 - 15 ○ How many interested parties entered into confidentiality agreements with
 - 16 ClickSoftware in February 2015;
 - 17 ○ The fact that Francisco Partners' proposal between mid-February and mid-
 - 18 March of 2015 was \$13.00 per share and, therefore, where it fell in relation to
 - 19 other proposals received in that timeframe; and
 - 20 ○ Information regarding several parties' decision to not move forward with
 - 21 ClickSoftware despite Jefferies' efforts as directed by the Board of Directors.
- 22 • Information regarding the Financial Opinion of Jefferies, including:
 - 23 ○ In regards to Jefferies' *Selected Comparable Companies Analysis*, inclusion of
 - 24 the following chart reflecting specific benchmarking performed by Jefferies:

Selected Comparable Companies Multiples			
<u>Benchmark</u>	<u>25th Percentile</u>	<u>Median</u>	<u>75th Percentile</u>
TEV / CY 2015E Revenue	1.6x	2.2x	3.8x
TEV / CY 2016E Revenue	1.5x	2.1x	3.2x
TEV / CY 2015E EBITDA	9.4x	15.0x	21.2x
TEV / CY 2016E EBITDA	9.6x	15.5x	22.8x

- In regards to Jefferies' *Selected Transaction Median Analysis*, inclusion of the following chart providing additional values for the provided multiple and adding the multiples derived from LTM TEV/ EBITDA:

Selected Transaction Median Multiples			
	25 th Percentile	Median	75 th Percentile
LTM TEV / Revenue	2.6x	3.4x	4.5x
LTM TEV / EBITDA	11.4x	13.6x	16.5x

13. On July 11, 2015, after a 30-day period waiting period mandated by Israeli law, Francisco Partners closed and complete its acquisition of ClickSoftware.

14. Following the execution of the MOU, Plaintiff's counsel conducted additional discovery to confirm the reasonableness of the terms of the parties' agreement. In particular: (1) review of over a thousand pages of both confidential, non-public, and public documents, including the Company's SEC filings, minutes of meetings of the Company's Board of Directors (the "Board") and financial presentations by the Company's financial advisor, Jefferies LLC ("Jefferies"); (2) a telephonic interview of Shai Beilis, a member of the Board of Directors; and (3) a deposition of Jeffrey Snyder, a representative of Jefferies, ClickSoftware's financial advisor in connection with the Proposed Transaction.

15. On August 7, 2015, the parties to the Actions entered into a Stipulation of Settlement ("Stipulation"), memorializing in full the terms of the Settlement.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 7th day of August, 2015, at Bala Cynwyd, Pennsylvania.

Evan J. Smith
Evan J. Smith